

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4558 of 1987

For Approval and Signature:

Hon'ble MR.JUSTICE D.H.WAGHELA

Sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
 5. Whether it is to be circulated to the Civil Judge? : NO
1 to 5 No

CHANDUBHAI D SOLANKI, SINCE DECEASED THROUGH HEIRS & L.R.

Versus

DIVISIONAL CONTROLLER

Appearance:

MR MUKESH H RATHOD for Petitioners

MR HARDIK C RAWAL for Respondent No. 1

CORAM : MR.JUSTICE D.H.WAGHELA

Date of decision: 11/10/2000

C.A.V. JUDGEMENT

1. The petitioner, a workman of the respondent, has challenged the award of the Labour Court, Vadodara in Reference (LCV) No.16 of 1984 dated 6.3.1986 whereby the petitioner was ordered to be reinstated without

backwages.

2. The petitioner was serving as a watchman and upon being transferred to another depot, he had went on medical leave. Although he had sent in medical certificate for his sickness, he was dismissed from service as he did not resume his duties at the place where he was transferred. It is in evidence that during the period of his absence, the petitioner was trying to have the order of his transfer cancelled. The Labour Court has, after appreciation of evidence, arrived at the finding of fact that the petitioner had not reported for duty at the place where he was transferred even after being medically fit. In view of the application of the respondent to approve the dismissal of the petitioner and the circumstances appearing against the petitioner, the Labour Court awarded reinstatement but denied backwages.

3. As it appears from the record that the petitioner had voluntarily and intentionally not reported for duty at the place where he was transferred and not even cooperated in the inquiry held against him, it was just and proper that backwages were denied to him. Accordingly, there is no substance in the petition and no reason to interfere with the impugned award under Article 227 of the Constitution. The petition is, therefore, dismissed. Rule is discharged with no order as to costs.

Sd/-

(D.H.Waghela, J.)

KMG Thilake

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